



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,005	01/18/2002	Thierry Barboux	GASQ-101	1229

23290 7590 11/17/2004
HOLLANDER LAW FIRM, P.L.C.
SUITE 305
10300 EATON PLACE
FAIRFAX, VA 22030

EXAMINER

STASHICK, ANTHONY D

ART UNIT PAPER NUMBER

3728

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,005

Applicant(s)

BARBOUX, THIERRY

Examiner

Anthony Stashick

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 14-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 18 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §.119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 27, 2004 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 14-18, 21 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipate by McKenzie et al. 5,493,794. McKenzie et al. '794 discloses all the limitations of the claims including the following: a sole (bottom of 34); a sole insert (40 including 42-45) that runs transverse a sole of a boot (see Figure 7A, boot is 34 as this is a snowshoe boot/binding); the insert having two ends (left and right ends of 40); each end positioned on a lateral edge of the sole (the sole is 46a, 46b) to work with holding means provided on the snowshoe; the length of the sole insert is independent of the size of the boot and is designed to be used on at least two different boot sizes (length of insert is designed to fit between the rails 18, 20 independent of the boot size); each end of the sole insert comprises hollow compartments (see 45 in Figure 7A); the

Art Unit: 3728

sole insert is positioned along a transverse axis that is orthogonal to a longitudinal axis of the boot (see Figure 7A); the longitudinal position of the sole insert is the same for a given boot model, regardless of the size of the boot (insert designed to fit between rails); a boot 34 for a snowshoe; the sole (bottom of 34) has hollow contours on its lateral edges in which the ends of the sole insert are located (see Figure 4); the sole insert is positioned in the sole such that the ratio between the distance measured between the transverse axis of the sole insert and the front end of the boot and the length of the boot is the same regardless of the size of the boot (sole insert is designed to position between the rails 18 and 20); the process for manufacturing the boot comprises arranging an insert inside the sole of a boot, the insert having a length that is independent of the size of the boot and is constant (see Figure 4); the sole insert of one boot has the same length as the sole insert of another boot (insert designed to fit between rails 18 and 20, independent of shoe size).

4. Claims 14-18, 20-21 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipate by Massicotte 3,344,538. Massicotte '538 discloses all the limitations of the claims including the following: a sole 40; a sole insert 41 that runs transverse to the sole (see Figure 4); the insert having two ends (one on each side of the sole); each end positioned on a lateral edge of the sole (see Figure 4) to work with holding means provided on the snowshoe; the length of the sole insert is independent of the size of the boot and is designed to be used on at least two different boot sizes (sole insert designed to fit between lock plate 16 and block 17); the length of the sole insert is the same for at least two boots of different sizes (sole insert designed to fit between lock plate 16 and block 17); each end of the sole insert comprises hollow compartments (see Figure 4, pin fits in hollow compartment); the sole insert is positioned along a transverse axis that is

Art Unit: 3728

orthogonal to a longitudinal axis of the boot (see Figure 1); the longitudinal position of the sole insert is the same for a given boot model, regardless of the size of the boot (sole insert designed to fit between lock plate 16 and block 17); the sole has hollow contours on its lateral edges in which the ends of the sole insert are located (pins for locking fit in hollow ends) so as to work with holding means provided on the snowshoe; the width of the sole varies in its height (see Figures 2 and 2A) and a vertical position of the sole insert differs depending on the size of the boot (see Figures 2 and 2A); the sole insert is positioned in the sole such that the ratio between the distance measured between the transverse axis of the sole insert and the front end of the boot and the length of the boot is the same regardless of the size of the boot (sole insert designed to fit between lock plate 16 and block 17, regardless of size of boot); the process for manufacturing the boot comprises arranging an insert inside the sole of a boot, the insert having a length that is independent of the size of the boot and is constant (see Figures 1-7); the sole insert of one boot has the same length as the sole insert of another boot (sole insert designed to fit between lock plate 16 and block 17, regardless of size of boot).

5. Claims 13-19, 21-24 and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by the WO reference to Aomori WO00/13538 (WO '538). WO '538 discloses all the limitations of the claims including the following: a sole 14; a sole insert 26 that runs transverse a sole of a boot (see Figure 5); the insert having two ends (see Figure 5); each end positioned on a lateral edge of the sole (as shown in Figures 4-7) so as to work with holding means provided on a snowshoe; the length of the sole insert is independent of the size of the boot (designed to fit between the binding G shown in Figure 8, independent of the size of the boot and can be used on any boot size) and is designed to be used on at least two different boot sizes; each end of the sole

Art Unit: 3728

insert comprises hollow compartments (see Figure 4, end caps 28 screw into hollow ends of insert 26); the sole insert is positioned along a transverse axis that is orthogonal to a longitudinal axis of the boot (see Figures 5-7); the longitudinal position of the sole insert is the same for a given boot model, regardless of the size of the boot (longitudinal position depends upon the location of the hole in the sole rather than the length of the boot. Boots designed to fit the binding G would have holes in the sole in the same place irregardless of size of boot); the sole has hollow contours on its lateral edges in which the ends of the sole insert are located (see Figure 4, hollow ends accept plugs 28) to work with holding means provided on a snowshoe; a longitudinal position of the sole insert varies as a function of size whereby the sole insert is positioned in a front part of the boot at a point where the width of the sole is equal to the length of the sole insert (see Figures 5-7); the sole insert is positioned in the sole such that the ratio between the distance measured between the transverse axis of the sole insert and the front end of the boot and the length of the boot is the same regardless of the size of the boot (see Figure 4); ratio is between 0.10 and 0.45 (see Figures 5-7); the process for manufacturing the boot comprises arranging an insert inside the sole of a boot, the insert having a length that is independent of the size of the boot and is constant (Inserts are designed to fit in binding G independent of the size of the boot); the sole insert of one boot has the same length as the sole insert of another boot (left and right boots of a pair are the same).

Response to Arguments

6. Applicant's arguments filed August 27, 2004 have been fully considered but they are not persuasive. Applicant argues that McKenzie et al. '794 does not have a boot because a boot is defined as "a protective piece of footgear...covering the foot and part or all the leg". This

Art Unit: 3728

argument is not clearly understood. A boot is also a protective covering or sheath, which the binding of the snowshoe of McKenzie et al. '704 meets as it covers a shoe or boot placed within it and protects that boot or shoe from being dislodged from it. The only limitations that the instant application has put on the boot claimed is that it has a sole and a sole insert, which McKenzie et al. '794 meets. Therefore, as noted above, McKenzie et al. '704 meets all the limitations of the claims. Applicant further argues that the sole insert of Massicotte is not independent of the size of the boot. This is not clear. As clearly shown in Figures 1, 3, 4 and 7, the insert of Massicotte need only be long enough to engage the locking mechanism 48 and therefore would be independent of the size of the boot. Since 40 is part of the sole, Massicotte meets this limitation of the claims. Applicant argues that Massicotte does not have hollow contours on the edge of the sole. This argument is not clear as Massicotte has hollow contours that allow for the insert to pass through, these contours are located on the edge of the sole. Therefore, Massicotte meets this limitation of the claims. With respect to applicant's arguments directed toward WO'538, these arguments are also not clear. As can be seen in Figure 4 of WO '538, the same insert can be placed within any of the holes in the sole. Since the holes are shown to be located at places of different lengths, the insert of the same size is shown to be placed in holes of different lengths, thereby allowing boots of different widths to be used. Wo'538 also shows hollow contours, the holes where the insert is placed within.

Art Unit: 3728


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Stashick whose telephone number is (571) 272-4561.

The examiner can normally be reached on Monday through Thursday from 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anthony Stashick
Primary Examiner
Art Unit 3728

ADS